



Amendment No. 1  
to  
Contract No. GA180000071  
for  
Sludge Pumping, Hauling, Disposal, and Wet Well Cleaning  
between  
Wastewater Transport Services, LLC  
and the  
City of Austin

- 1.0 The City hereby exercises this Unilateral Extension Option for the above-referenced contract. The extension option will be effective August 28, 2020 through August 27, 2021. Two options will remain.
- 2.0 The total contract amount is increased by \$800,000.00 for the extension option period. The total contract authorization is recapped below:

Term	Contract Amount	Total Contract Amount
Initial Term: 08/28/2018 – 08/27/2020	\$1,600,000.00	\$1,600,000.00
Amendment No. 1: Option 1 08/28/2020 – 08/27/2021	\$800,000.00	\$2,400,000.00

- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

**CITY OF AUSTIN**

Matthew  
Duree

Digitally signed by  
Matthew Duree  
Date: 2020.07.20  
10:21:37 -05'00'

Signature

Matthew Duree

Printed Name of Authorized Person

Procurement Manager

Title

Date

**CONTRACT BETWEEN THE CITY OF AUSTIN (“City”)  
AND  
Wastewater Transport Services, LLC (“Contractor”)  
for  
Sludge Pumping, Hauling, Disposal and Wet Well Cleaning  
MA 2200 GA180000071**

The City accepts the Contractor’s Offer (as referenced in Section 1.1.3 below) for the above requirement and enters into the following Contract.

This Contract is between Wastewater Transport Services, LLC having offices at Austin, TX 78721 and the City, a home-rule municipality incorporated by the State of Texas, and is effective as of the date executed by the City (“Effective Date”).

Capitalized terms used but not defined herein have the meanings given them in Solicitation Number IFB 2200 MDD1000.

**1.1 This Contract is composed of the following documents:**

- 1.1.1 This Contract
- 1.1.2 The City’s Solicitation, IFB, MDD1000 including all documents incorporated by reference
- 1.1.3 Wastewater Transport Services, LLC Offer, dated 05/29/2018, including subsequent clarifications

**1.2 Order of Precedence.** Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order:

- 1.2.1 This Contract
- 1.2.2 The City’s Solicitation as referenced in Section 1.1.2, including all documents incorporated by reference
- 1.2.3 The Contractor’s Offer as referenced in Section 1.1.3, including subsequent clarifications.

**1.3 Term of Contract.**

1.3.1 **Term of Contract.** The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of 24 months. The Contract may be extended beyond the initial term for up to three additional 12-month periods at the City’s sole option.

1.3.1.1 If the City exercises any extension option, all terms, conditions, and provisions of the Contract shall remain in effect for that extension period, subject only to any economic price adjustment otherwise allowed under the Contract.

1.3.1.2 Upon expiration of the initial term or any period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary for the City to re-solicit and/or complete the deliverables due under the Contract (not to exceed 120 calendar days unless mutually agreed to in writing).

1.3.1.3 This is a 24-month Contract. Prices are firm for the first twelve (12) months.

1.4 **Compensation.** The Contractor shall be paid a total Not-to-Exceed amount of \$1,600,000 for the initial Contract term and \$800,000 for each extension option as indicated in the Bid Sheet, IFB Section 0600. Payment shall be made upon successful completion of services or delivery of goods as outlined in each individual Delivery Order.

1.5 **Quantity of Work.** There is no guaranteed quantity of work for the period of the Contract and there are no minimum order quantities. Work will be on an as needed basis as specified by the City for each Delivery Order

1.6 **Clarifications and Additional Agreements.** The following are incorporated into the Contract.

1.6.1 Wastewater Transport Services, LLC's clarification on providing emergency services for the City of Austin.

This Contract (including any Exhibits) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

In witness whereof, the parties have caused a duly authorized representative to execute this Contract on the date set forth below.

**Wastewater Transport Services, LLC**

**CITY OF AUSTIN**

Alyssa Tubor  
Printed Name of Authorized Person

Matthew Duce  
Printed Name of Authorized Person

Alyssa Tubor  
Signature

[Signature]  
Signature

Manager  
Title:

Procurement Supervisor  
Title:

8-27-18  
Date:

8-27-18  
Date:



## CITY OF AUSTIN, TEXAS

### Purchasing Office INVITATION FOR BID (IFB) OFFER SHEET

**SOLICITATION NO:** IFB 2200 MDD1000

**DATE ISSUED:** May 21<sup>st</sup>, 2018

**REQUISITION NO.:** RQM 2200 18013100239

**COMMODITY CODE:** 91070

**COMMODITY/SERVICE DESCRIPTION:** Sludge pumping, hauling disposal and wet well cleaning

**PRE-BID CONFERENCE TIME AND DATE:** Wednesday, May 30<sup>th</sup> @ 11:00 AM

**LOCATION:** Waller Creek Center, 625 E. 10<sup>th</sup> Street, Austin, TX 78701. Room 515

**FOR CONTRACTUAL AND TECHNICAL  
ISSUES CONTACT THE FOLLOWING  
AUTHORIZED CONTACT PERSON:**

Matthew Duree  
Procurement Supervisor

**Phone:** (512) 974-6346

**E-Mail:** Matt.Duree@austintexas.gov

**BID DUE PRIOR TO:** Thursday, June 7<sup>th</sup>, 2018 @ 2:00 PM

**BID OPENING TIME AND DATE:** Thursday, June 7<sup>th</sup>, 2018 3:00 PM

**LOCATION:** MUNICIPAL BUILDING, 124 W 8<sup>th</sup> STREET  
RM 308, AUSTIN, TEXAS 78701

**LIVE BID OPENING ONLINE:**

For information on how to attend the Bid Opening online, please select this link:

<http://www.austintexas.gov/department/bid-opening-webinars>

When submitting a sealed Offer and/or Compliance Plan, use the proper address for the type of service desired, as shown below:

Address for US Mail (Only)	Address for FedEx, UPS, Hand Delivery or Courier Service
City of Austin	City of Austin, Municipal Building
Purchasing Office-Response Enclosed for Solicitation # MDD1000	Purchasing Office-Response Enclosed for Solicitation # MDD1000
P.O. Box 1088	124 W 8 <sup>th</sup> Street, Rm 308
Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

**NOTE:** Offers must be received and time stamped in the Purchasing Office prior to the Due Date and Time. It is the responsibility of the Offeror to ensure that their Offer arrives at the receptionist's desk in the Purchasing Office prior to the time and date indicated. Arrival at the City's mailroom, mail terminal, or post office box will not constitute the Offer arriving on time. See Section 0200 for additional solicitation instructions.

**All Offers (Including Compliance Plans) that are not submitted in a sealed envelope or container will not be considered.**

The Vendor agrees, if this Offer is accepted within 180 calendar days after the Due Date, to fully comply in strict accordance with the Solicitation, specifications and provisions attached thereto for the amounts shown on the accompanying Offer.

**SUBMIT 1 ORIGINAL AND 1 ELECTRONIC COPY (USB FLASH DRIVE) OF YOUR RESPONSE**

**\*\*\*SIGNATURE FOR SUBMITTAL REQUIRED ON PAGE 3 OF THIS DOCUMENT\*\*\***

**This solicitation is comprised of the following required sections. Please ensure to carefully read each section including those incorporated by reference. By signing this document, you are agreeing to all the items contained herein and will be bound to all terms.**

SECTION NO.	TITLE	PAGES
0100	STANDARD PURCHASE DEFINITIONS	*
0200	STANDARD SOLICITATION INSTRUCTIONS	*
0300	STANDARD PURCHASE TERMS AND CONDITIONS	*
0400	SUPPLEMENTAL PURCHASE PROVISIONS	8
0500	SPECIFICATION	5
0600	BID SHEET – Must be completed and returned with Offer	ATT
0605	LOCAL BUSINESS PRESENCE IDENTIFICATION FORM – Complete and return	2
0700	REFERENCE SHEET – Complete and return if required	2
0800	NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION–Complete and return	2
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	*
0810	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION	*
0815	LIVING WAGES CONTRACTOR CERTIFICATION–Complete, sign and return	1
0835	NONRESIDENT BIDDER PROVISIONS – Complete and return	1
0900	SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM – Complete & return	1
0905	SUBCONTRACTING/SUB-CONSULTING UTILIZATION PLAN – Complete and return if applicable	3

**\* Documents are hereby incorporated into this Solicitation by reference, with the same force and effect as if they were incorporated in full text. The full text versions of the \* Sections are available on the Internet at the following online address:**

[http://www.austintexas.gov/financeonline/vendor\\_connection/index.cfm#STANDARDBIDDOCUMENTS](http://www.austintexas.gov/financeonline/vendor_connection/index.cfm#STANDARDBIDDOCUMENTS)

**If you do not have access to the Internet, you may obtain a copy of these Sections from the City of Austin Purchasing Office located in the Municipal Building, 124 West 8<sup>th</sup> Street, Room #308 Austin, Texas 78701; phone (512) 974-2500. Please have the Solicitation number available so that the staff can select the proper documents. These documents can be mailed, expressed mailed, or faxed to you.**

The undersigned, by his/her signature, represents that he/she is submitting a binding offer and is authorized to bind the respondent to fully comply with the solicitation document contained herein. The Respondent, by submitting and signing below, acknowledges that he/she has received and read the entire document packet sections defined above including all documents incorporated by reference, and agrees to be bound by the terms therein.

Company Name: Wastewater Transport Services, LLC

Company Address: 826 Linger Ln.

City, State, Zip: Austin, Texas 78721

Federal Tax ID No.                     

Printed Name of Officer or Authorized Representative: Cary Juby

Title: Vice-President

Signature of Officer or Authorized Representative: 

Date: 05/29/2018

Email Address: austin@wastewaterts.com

Phone Number: 512-973-8484 for emergencies press 1

**\* Completed Bid Sheet, section 0600 must be submitted with this signed Offer sheet to be considered for award**



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STANDARD PURCHASE TERMS AND CONDITIONS**

By submitting an Offer in response to the Solicitation, the Contractor agrees that the Contract shall be governed by the following terms and conditions. Unless otherwise specified in the Contract, Sections 3, 4, 5, 6, 7, 8, 20, 21, and 36 shall apply only to a Solicitation to purchase Goods, and Sections 9, 10, 11 and 22 shall apply only to a Solicitation to purchase Services to be performed principally at the City's premises or on public rights-of-way.

1. **CONTRACTOR'S OBLIGATIONS**. The Contractor shall fully and timely provide all Deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.
2. **EFFECTIVE DATE/TERM**. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.
3. **CONTRACTOR TO PACKAGE DELIVERABLES**: The Contractor will package Deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price. Unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.
4. **SHIPMENT UNDER RESERVATION PROHIBITED**: The Contractor is not authorized to ship the Deliverables under reservation and no tender of a bill of lading will operate as a tender of Deliverables.
5. **TITLE & RISK OF LOSS**: Title to and risk of loss of the Deliverables shall pass to the City only when the City actually receives and accepts the Deliverables.
6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the Deliverables. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Agency".
7. **RIGHT OF INSPECTION AND REJECTION**: The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the Deliverables at delivery before accepting them, and to reject defective or non-conforming Deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the Deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.
8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of Deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.
9. **PLACE AND CONDITION OF WORK**: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City

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harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

**10. WORKFORCE**

- A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
- B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property .
  - i. use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or
  - ii. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.
- C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

- 11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS:** The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

**12. INVOICES:**

- A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.
- B. **Proper Invoices must include a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.
- C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and Deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.
- D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.
- E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.



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**13. PAYMENT:**

- A. All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the Deliverables or of the invoice, whichever is later.
- B. **If payment is not timely made, (per paragraph A), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**
- C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.
- D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:
  - i. delivery of defective or non-conforming Deliverables by the Contractor;
  - ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
  - iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
  - iv. damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
  - v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
  - vi. failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or
  - vii. failure of the Contractor to comply with any material provision of the Contract Documents.
- E. Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.
- F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
- G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any Deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

- 14. TRAVEL EXPENSES:** All travel, lodging and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Solicitation will be reviewed against the City's Travel Policy as published and maintained by the City's Controller's Office and the Current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

<http://www.gsa.gov/portal/category/21287>

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No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of detailed itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulations.

**15. FINAL PAYMENT AND CLOSE-OUT:**

- A. If an MBE/WBE Program Compliance Plan is required by the Solicitation, and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Project manager or Contract manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements of the Compliance Plan as accepted by the City.
- B. The making and acceptance of final payment will constitute:
  - i. a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and
  - ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

**16. SPECIAL TOOLS & TEST EQUIPMENT:** If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

**17. AUDITS and RECORDS:**

- A. The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.
- B. Records Retention:
  - i. Contractor is subject to City Code chapter 2-11 (Records Management), and as it may subsequently be amended. For purposes of this subsection, a Record means all books, accounts, reports, files, and other data recorded or created by a Contractor in fulfillment of the Contract whether in digital or physical format, except a record specifically relating to the Contractor's internal administration.
  - ii. All Records are the property of the City. The Contractor may not dispose of or destroy a Record without City authorization and shall deliver the Records, in all requested formats and media, along with all finding aids and metadata, to the City at no cost when requested by the City
  - iii. The Contractor shall retain all Records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer.
- C. The Contractor shall include sections A and B above in all subcontractor agreements entered into in connection with this Contract.

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**18. SUBCONTRACTORS:**

- A. If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective Deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.
- B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:
  - i. require that all Deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
  - ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
  - iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
  - iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
  - v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.
- C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.
- D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

**19. WARRANTY-PRICE:**

- A. The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like Deliverables under similar terms of purchase.
- B. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.
- C. In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like Deliverables under similar terms of purchase.

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20. **WARRANTY – TITLE:** The Contractor warrants that it has good and indefeasible title to all Deliverables furnished under the Contract, and that the Deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the Deliverables.
21. **WARRANTY – DELIVERABLES:** The Contractor warrants and represents that all Deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the Deliverables shall be new or recycled merchandise, and not used or reconditioned.
- A. Recycled Deliverables shall be clearly identified as such.
  - B. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.
  - C. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the Deliverables or from the date of acceptance of any replacement Deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming Deliverables, or replace the non-conforming Deliverables with fully conforming Deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
  - D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming Deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of Deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming Deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such Deliverables from another source.
  - E. If the Contractor is not the manufacturer, and the Deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.
22. **WARRANTY – SERVICES:** The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.
- A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
  - B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
  - C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be

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required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

23. **ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES:** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming Deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming Deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming Deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.
24. **RIGHT TO ASSURANCE:** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
25. **STOP WORK NOTICE:** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.
26. **DEFAULT:** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 24, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.
27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.
28. **TERMINATION WITHOUT CAUSE:** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.
29. **FRAUD:** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

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**30. DELAYS:**

- A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in paragraph 48. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.
- B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

**31. INDEMNITY:**

- A. Definitions:
  - i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:
    - (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or
    - (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),
  - ii. "Fault" shall include the sale of defective or non-conforming Deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.
- B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

**32. INSURANCE:** (reference Section 0400 for specific coverage requirements). The following insurance requirement applies. (Revised March 2013).

**A. General Requirements.**

- i. The Contractor shall at a minimum carry insurance in the types and amounts indicated in Section 0400, Supplemental Purchase Provisions, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- ii. The Contractor shall provide Certificates of Insurance with the coverages and endorsements required in Section 0400, Supplemental Purchase Provisions, to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the

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City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.

- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.
- vi. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- vii. If insurance policies are not written for amounts specified in Section 0400, Supplemental Purchase Provisions, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- viii. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
- ix. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
- x. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
- xi. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. Self-insured retentions shall be disclosed on the Certificate of Insurance.
- xii. The Contractor shall provide the City thirty (30) calendar days' written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.
- xiii. The insurance coverages specified in Section 0400, Supplemental Purchase Provisions, are required minimums and are not intended to limit the responsibility or liability of the Contractor.

**B. Specific Coverage Requirements: Specific insurance requirements are contained in Section 0400, Supplemental Purchase Provisions**

33. **CLAIMS:** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the



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Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2<sup>nd</sup> Street, 4<sup>th</sup> Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

34. **NOTICES**: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at P.O. Box 1088, Austin, Texas 78767 and marked to the attention of the Contract Administrator.
35. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.
36. **NO WARRANTY BY CITY AGAINST INFRINGEMENTS**: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the Deliverables and (ii) the Deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the Deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any claim that the City's exercise anywhere in the world of the rights associated with the City's ownership, and if applicable, license rights, and its use of the Deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties stated in this Contract. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf. Further, Contractor agrees that the City's specifications regarding the Deliverables shall in no way diminish Contractor's warranties or obligations under this paragraph and the City makes no warranty that the production, development, or delivery of such Deliverables will not impact such warranties of Contractor.
37. **CONFIDENTIALITY**: In order to provide the Deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.
38. **PUBLICATIONS**: All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

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39. **ADVERTISING**: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.
40. **NO CONTINGENT FEES**: The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.
41. **GRATUITIES**: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Austin with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.
42. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**: No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.
43. **INDEPENDENT CONTRACTOR**: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.
44. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.
45. **WAIVER**: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.
46. **MODIFICATIONS**: The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.
47. **INTERPRETATION**: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

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**48. DISPUTE RESOLUTION:**

- A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.
- B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

49. **JURISDICTION AND VENUE:** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

50. **INVALIDITY:** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

51. **HOLIDAYS:** The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11

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Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

52. **SURVIVABILITY OF OBLIGATIONS:** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

53. **NON-SUSPENSION OR DEBARMENT CERTIFICATION:**

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

54. **EQUAL OPPORTUNITY**

A. **Equal Employment Opportunity:** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

B. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

55. **BUY AMERICAN ACT-SUPPLIES (Applicable to certain Federally funded requirements)**

A. Definitions. As used in this paragraph –

i. "Component" means an article, material, or supply incorporated directly into an end product.

ii. "Cost of components" means -

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

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- iii. "Domestic end product" means-
  - (1) An unmanufactured end product mined or produced in the United States; or
  - (2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
- iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.
- v. "Foreign end product" means an end product other than a domestic end product.
- vi. "United States" means the 50 States, the District of Columbia, and outlying areas.
- B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
- C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.
- D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

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The following Supplemental Purchasing Provisions apply to this solicitation:

1. **EXPLANATIONS OR CLARIFICATIONS:** (reference paragraph 5 in Section 0200)

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office by Thursday, May 31, 2018.

2. **INSURANCE:** Insurance is required for this solicitation.

A. **General Requirements:** See Section 0300, Standard Purchase Terms and Conditions, paragraph 32, entitled Insurance, for general insurance requirements.

- i. The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to contract execution and within 14 calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award
- ii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iii. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.
- iv. The Certificate of Insurance, and updates, shall be mailed to the following address:

City of Austin Purchasing Office  
P. O. Box 1088  
Austin, Texas 78767

OR

[PURInsuranceCompliance@austintexas.gov](mailto:PURInsuranceCompliance@austintexas.gov)

B. **Specific Coverage Requirements:** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

- i. **Worker's Compensation and Employers' Liability Insurance:** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee.
  - (1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:
    - (a) Waiver of Subrogation, Form WC420304, or equivalent coverage
    - (b) Thirty (30) days Notice of Cancellation, Form WC420601, or equivalent coverage
- ii. **Commercial General Liability Insurance:** The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injury).
  - (1) The policy shall contain the following provisions:
    - (a) Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
    - (b) Contractor/Subcontracted Work.

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- (c) Products/Completed Operations Liability for the duration of the warranty period.
    - (d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and/or Underground Coverage.
  - (2) The policy shall also include these endorsements in favor of the City of Austin:
    - (a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage
    - (b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
    - (c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage
- iii. **Business Automobile Liability Insurance:** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
  - (1) The policy shall include these endorsements in favor of the City of Austin:
    - (a) Waiver of Subrogation, Endorsement CA0444, or equivalent coverage
    - (b) Thirty (30) days Notice of Cancellation, Endorsement CA0244, or equivalent coverage
    - (c) The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.
- iv. **Hazardous Materials Insurance:** For Work which involves hazardous materials or pollutants, the Contractor or Subcontractor responsible for the Work shall comply with the following insurance requirements in addition to those specified above:
  - (1) Provide an endorsement to the Commercial General Liability policy with minimum bodily injury and property damage limits of \$1,000,000 per occurrence for coverages A&B and products/completed operations coverage with a separate aggregate of \$1,000,000. This policy shall not exclude coverage for hazardous materials or pollutants identified in the scope of work, and shall provide "occurrence" coverage without a sunset clause. The policy shall provide 30 day Notice of Cancellation and Waiver of Subrogation endorsements in favor of OWNER.
  - (2) The Contractor or Subcontractor responsible for transporting any hazardous materials under this contract shall provide pollution coverage. Federal law requires interstate or intrastate transporters of hazardous materials to provide an MCS 90 endorsement with a \$5,000,000 limit when transporting hazardous materials in bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more. Interstate transporters of hazardous materials in non-bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more must provide an MCS 90 endorsement with a \$1,000,000 limit. The terms "conveyance" and "bulk" are defined by Title 49 CFR 171.8. All other transporters of hazardous materials shall provide either an MCS 90 endorsement with minimum limits of \$1,000,000 or an endorsement to their Commercial General Liability Insurance policy which provides coverage for bodily injury and property damage arising out of the transportation of hazardous materials. The endorsement shall, at a minimum, provide a \$1,000,000 limit of liability and cover events caused by the hazardous materials arising from fire, wind, hail, lightning, overturn of conveyance, collision with other vehicles or objects, and loading and unloading of conveyances.
- C. **Endorsements:** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.



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3. **TERM OF CONTRACT:**

The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of 24 months. The Contract may be extended beyond the initial term for up to 3 additional 12 month periods at the City's sole option. If the City exercises any extension option, all terms, conditions, and provisions of the Contract shall remain in effect for that extension period, subject only to any economic price adjustment otherwise allowed under the Contract.

- A. Upon expiration of the initial term or any period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary for the City to re-solicit and/or complete the deliverables due under this Contract. Any hold over period will not exceed 120 calendar days unless mutually agreed on by both parties in writing.
- B. Upon written notice to the Contractor from the City's Purchasing Officer or his designee and acceptance of the Contractor, the term of this contract shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above.
- C. Prices are firm and fixed for the first 12 months. Thereafter, price changes are subject to the Economic Price Adjustment provisions of this Contract.

4. **QUANTITIES:** The quantities listed herein are estimates for the period of the Contract. The City reserves the right to purchase more or less of these quantities as may be required during the Contract term. Quantities will be as needed and specified by the City for each order. Unless specified in the solicitation, there are no minimum order quantities.

5. **INVOICES and PAYMENT:** (reference paragraphs 12 and 13 in Section 0300)

- A. Invoices shall contain a unique invoice number and the information required in Section 0300, paragraph 12, entitled "Invoices." Invoices received without all required information cannot be processed and will be returned to the vendor.

Invoices shall be mailed to the below address:

	City of Austin
Department	Remote Treatment Plants & Lift Stations
Attn:	Allen Reich
Address	7113 FM 969
City, State Zip Code	Austin, TX 78724

	City of Austin
Department	Pipeline Maintenance, Glen Bell Service Center
Attn:	Regina Luna
Address	3907 S. Industrial Drive
City, State Zip Code	Austin, TX 78744

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	City of Austin
Department	Hornsby Bend BMP
Attn:	Natilie Leone
Address	2110 S. FM 973
City, State Zip Code	Austin, TX 78725

	City of Austin
Department	Pipeline Maintenance North/NESC
Attn:	Regina Luna
Address	901 W. Koenig Lane
City, State Zip Code	Austin, TX 78756

	City of Austin
Department	Walnut Creek Wastewater Treatment Plan
Attn:	Teri Hawkins
Address	7113 FM 969
City, State Zip Code	Austin, TX 78724

- B. The Contractor agrees to accept payment by either credit card, check or Electronic Funds Transfer (EFT) for all goods and/or services provided under the Contract. The Contractor shall factor the cost of processing credit card payments into the Offer. There shall be no additional charges, surcharges, or penalties to the City for payments made by credit card.

**6. LIVING WAGES:**

**The City's Living Wage Program, Rule R161-17.14, is located at:**

<http://www.austintexas.gov/edims/document.cfm?id=277854>

- A. The minimum wage required for all Contractor Employees (and all tiers of Subcontracting) directly assigned to this City Contract is \$14.00 per hour, unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain solicitations in order to assure quality and continuity of service.
- B. The City requires Contractors submitting Offers on this Contract to provide a certification (**see the Living Wages Contractor Certification included in the Solicitation**) with their Offer certifying that all Contractor Employees (and all tiers of Subcontracting) directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$14.00 per hour. The certification shall include a list of all Contractor Employees (and all tiers of Subcontracting) directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.

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- C. The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA).
- D. The Contractor shall provide to the Department's assigned Contract Manager with the first invoice, individual Employee Certifications for all Contractor Employees (and all tiers of Subcontracting) directly assigned to the contract. The City reserves the right to request individual Employee Certifications at any time during the contract term. Employee Certifications shall be signed by each Contractor Employee (and all tiers of Subcontracting) directly assigned to the contract. The Employee Certification form is available on-line at [https://www.austintexas.gov/financeonline/vendor\\_connection/index.cfm](https://www.austintexas.gov/financeonline/vendor_connection/index.cfm).
- E. Contractor shall submit employee certifications for Contractor Employees (and all tiers of Subcontracting) annually on the anniversary date of contract award with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract. The Employee Certification Forms shall be submitted for Contractor Employees (and all tiers of Subcontracting) added to the contract and/or to report any employee changes as they occur.
- F. The Department's assigned Contract Manager will periodically review the employee data submitted by the Contractor to verify compliance with this Living Wage provision. The City retains the right to review employee records required in paragraph C above to verify compliance with this provision.

**7. NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING:**

- A. On November 10, 2011, the Austin City Council adopted Ordinance No. 20111110-052 amending Chapter 2.7, Article 6 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures). During the No-Contact Period, Offerors or potential Offerors are prohibited from making a representation to anyone other than the Authorized Contact Person in the Solicitation as the contact for questions and comments regarding the Solicitation.
- B. If during the No-Contact Period an Offeror makes a representation to anyone other than the Authorized Contact Person for the Solicitation, the Offeror's Offer is disqualified from further consideration except as permitted in the Ordinance.
- C. If an Offeror has been disqualified under this article more than two times in a sixty (60) month period, the Purchasing Officer shall debar the Offeror from doing business with the City for a period not to exceed three (3) years, provided the Offeror is given written notice and a hearing in advance of the debarment.
- D. The City requires Offerors submitting Offers on this Solicitation to certify that the Offeror has not in any way directly or indirectly made representations to anyone other than the Authorized Contact Person during the No-Contact Period as defined in the Ordinance. The text of the City Ordinance is posted on the Internet at: <http://www.ci.austin.tx.us/edims/document.cfm?id=161145>

**8. NON-SOLICITATION:**

- A. During the term of the Contract, and for a period of six (6) months following termination of the Contract, the Contractor, its affiliate, or its agent shall not hire, employ, or solicit for employment or consulting services, a City employee employed in a technical job classification in a City department that engages or uses the services of a Contractor employee.
- B. In the event that a breach of Paragraph A occurs the Contractor shall pay liquidated damages to the City in an amount equal to the greater of: (i) one (1) year of the employee's annual compensation; or

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PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS**

- (ii) 100 percent of the employee's annual compensation while employed by the City. The Contractor shall reimburse the City for any fees and expenses incurred in the enforcement of this provision.
- C. During the term of the Contract, and for a period of six (6) months following termination of the Contract, a department that engages the services of the Contractor or uses the services of a Contractor employee will not hire a Contractor employee while the employee is performing work under a Contract with the City unless the City first obtains the Contractor's approval.
- D. In the event that a breach of Paragraph C occurs, the City shall pay liquidated damages to the Contractor in an amount equal to the greater of: (i) one (1) year of the employee's annual compensation or (ii) 100 percent of the employee's annual compensation while employed by the Contractor.

**9. WORKFORCE SECURITY CLEARANCE AND IDENTIFICATION (ID):**

- A. Access to the Austin Water Department building by the Contractor, all subcontractors and their employees will be strictly controlled at all times by the City. Security badges will be issued by the Department for this purpose. The Contractor shall submit a complete list of all persons requiring access to the Austin Water locations at least thirty (30) days in advance of their need for access. The City reserves the right to deny a security badge to any Contractor personnel for reasonable cause. The City will notify the Contractor of any such denial no more than twenty (20) days after receipt of the Contractor's submittal.
- B. Where denial of access by a particular person may cause the Contractor to be unable to perform any portion of the work of the contract, the Contractor shall so notify the City's Contract Manager, in writing, within ten (10) days of the receipt of notification of denial.
- C. Contractor personnel will be required to check in at the security desk when entering or leaving the Austin Water building and security badges must be on display at all times when in the building. Failure to do so may be cause for removal of Contractor Personnel from the worksite, without regard to Contractor's schedule. Security badges may not be removed from the premises.
- D. The Contractor shall provide the City's Contract Manager with a list of personnel scheduled to enter the building, seven days in advance. The list shall identify the persons by name, date of birth, driver's license number, the times that they will be inside the building and the areas where they will be working. Only persons previously approved by the City for the issuance of security badges will be admitted to the building.
- E. The Contractor shall comply with all other security requirements imposed by the City and shall ensure that all employees and subcontractors are kept fully informed as to these requirements.

**10. ECONOMIC PRICE ADJUSTMENT:**

- A. **Price Adjustments:** Prices shown in this Contract shall remain firm for the first twelve (12) months of the Contract. After that, in recognition of the potential for fluctuation of the Contractor's cost, a price adjustment (increase or decrease) may be requested by either the City or the Contractor on the anniversary date of the Contract or as may otherwise be specified herein. The percentage change between the contract price and the requested price shall not exceed the percentage change between the specified index in effect on the date the solicitation closed and the most recent, non-preliminary data at the time the price adjustment is requested. The requested price adjustment shall not exceed five percent (5%) for any single line item and in no event shall the total amount of the contract be automatically adjusted as a result of the change in one or more line items made pursuant to this

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provision. Prices for products or services unaffected by verifiable cost trends shall not be subject to adjustment.

- B. **Effective Date:** Approved price adjustments will go into effect on the first day of the upcoming renewal period or anniversary date of contract award and remain in effect until contract expiration unless changed by subsequent amendment.
- C. **Adjustments:** A request for price adjustment must be made in writing and submitted to the other Party prior to the yearly anniversary date of the Contract; adjustments may only be considered at that time unless otherwise specified herein. Requested adjustments must be solely for the purpose of accommodating changes in the Contractor's direct costs. Contractor shall provide an updated price listing once agreed to adjustment(s) have been approved by the parties.
- D. **Indexes:** In most cases an index from the Bureau of Labor Standards (BLS) will be utilized; however, if there is more appropriate, industry recognized standard then that index may be selected.
- i. The following definitions apply:
- (1) **Base Period:** Month and year of the original contracted price (the solicitation close date).
  - (2) **Base Price:** Initial price quoted, proposed and/or contracted per unit of measure.
  - (3) **Adjusted Price:** Base Price after it has been adjusted in accordance with the applicable index change and instructions provided.
  - (4) **Change Factor:** The multiplier utilized to adjust the Base Price to the Adjusted Price.
  - (5) **Weight %:** The percent of the Base Price subject to adjustment based on an index change.
- ii. **Adjustment-Request Review:** Each adjustment-request received will be reviewed and compared to changes in the index(es) identified below. Where applicable:
- (1) Utilize final Compilation data instead of Preliminary data
  - (2) If the referenced index is no longer available shift up to the next higher category index.
- iii. **Index Identification:** Complete table as they may apply.

Weight % or \$ of Base Price: 50%	
Database Name: Producer Price Index	
Series ID: pcu56211-56211	
<input checked="checked" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted
Geographical Area: United States	
Description of Series ID: Waste Collection	
This Index shall apply to the following items of the Bid Sheet / Cost Proposal: All	

- E. **Calculation:** Price adjustment will be calculated as follows:

**Composite Indexes:** Based on one or more weighted indexes reflecting pricing elements of a good or service. The weighted percentage for each index is defined in D iii. above.

For Each Index: Index at the time of calculation
Divided by each Index on solicitation close date
Equals change factor for each index
Multiply each Base Price of relevant line items by the percentage of price attributed to each index = weighted price

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Multiply weighted price by change factor for each index
Equals the Adjusted Price for the portion of the Base Price subject to each Index
Add all adjusted prices for each item together
Equals Adjusted Price for each item

- F. If the requested adjustment is not supported by the referenced index, the City, at its sole discretion, may consider approving an adjustment on fully documented market increases.
11. **INTERLOCAL PURCHASING AGREEMENTS:** (applicable to competitively procured goods/services contracts).
- A. The City has entered into Interlocal Purchasing Agreements with other governmental entities, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees to offer the same prices and terms and conditions to other eligible governmental agencies that have an interlocal agreement with the City.
- B. The City does not accept any responsibility or liability for the purchases by other governmental agencies through an interlocal cooperative agreement.
13. **CONTRACT MANAGER:** The following person is designated as Contract Manager, and will act as the contact point between the City and the Contractor during the term of the Contract:

Darrell Richmond

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[Darrell.Richmond@austintexas.gov](mailto:Darrell.Richmond@austintexas.gov)

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512-972-0313

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\*Note: The above listed Contract Manager is not the authorized Contact Person for purposes of the **NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING Provision** of this Section; and therefore, contact with the Contract Manager is prohibited during the no contact period.

**CITY OF AUSTIN  
0500 SCOPE OF WORK  
SLUDGE PUMPING AND LIFT STATION (WET WELL) CLEANING  
SOLICITATION NO.: IFB 2200 MDD1000**

**Description: *Sludge and Sewage Pumping, Hauling, and Disposal and Lift Station (Wet Well) Cleaning***

**1.0 PURPOSE**

The City of Austin (City) seeks to establish a contract with a qualified Contractor for sludge and sewage pumping, hauling, and disposal services and Lift Station Cleanings (Wet Well) for the Austin Water Department (AW). Services shall be provided for sewers, water and wastewater lines and Lift Stations for various AW locations. The City reserves the right to add or delete departments and locations as deemed necessary at the same bid price.

Any services that have been omitted from this scope of work that are clearly necessary or in conformance shall be considered a requirement although not directly specified or called for in the scope of work.

**2.0 BACKGROUND**

The City total estimated amount of scheduled sludge and sewage is approximately 3,333,750 gallons per year. The amount of emergency sewage and sludge to be hauled is approximately 900 gallons per visit and 800,000 gallons per year. AW has over 140 Lift Stations (Wet Wells) throughout the city. The importance of being able to have the ability to clean wet wells on a scheduled or emergency basis is highly critical, being that scum layer and trash build up affects the ability of the controls to properly operate the pumps as needed, which could cause a hazardous sanitary sewer overflow. The material is considered hazardous material as defined under 49 CFR part 383.5 which states: Hazardous materials means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.

**3.0 APPLICABLE REGULATIONS**

3.1 The Contractor shall comply with the following regulations during performance of services outlined in this Scope of Work:

3.1.1 City of Austin Ordinance # 950911-D

3.1.2 Texas Commission on Environmental Quality (TCEQ) Code:

3.1.2.1 Texas Admin Code 312.1, [link](#)

3.1.2.2 Texas Admin Code 312.101, [link](#)

3.1.2.3 Texas Admin Code 330.103, [link](#)

3.1.2.4 Texas Admin Code 330.7, [link](#)

3.1.3 City of Austin Code:

3.1.3.1 Chapter 12-4, [link](#)

3.1.3.2 Chapter 15-5, [link](#)

3.1.3.3 Chapter 15-10, [link](#)



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- 3.1.4 OSHA Guidelines
- 3.1.5 Federal EPA Guidelines
- 3.1.6 Texas Department of Transportation (TXDOT) regulations
- 3.2 The Contractor shall include with the bid submittal, a copy of the most current TCEQ disposal permit, EPA approval certification, and TxDOT hauling permit to be considered for award.
- 3.3 Because the Contractor will be transporting hazardous material, the Contractor shall comply with the Federal Motor Carrier Safety Regulations, specifically 49CFR part 383 which governs commercial driver license standards requirements and penalties.
- 3.4 Prior to beginning work, the Contractor shall obtain and hold a Liquid Waste Transporter Permit from the City of Austin.

**4.0 TASKS/REQUIREMENTS**

**4.1 *Contractor's Responsibilities***

- 4.1.1 The Contractor shall clean wet well (lift stations) at various AW locations, which of two types of cleanings:
  - 1. Skim-which consist of skimming the debris from the top of the wet well and checking the floats if possible at that level.
  - 2. Clean to the Floor-which consist of removing all debris, rags, grease and rinsing the floats.
- 4.1.2 The Contractor shall pump sludge and sewage at the locations listed below:
  - 4.1.1.2 Thoroughbred Farms  
WWTP 8250 Citation Avenue  
Austin, Texas 78767
  - 4.1.1.3 Dessau WWTP  
1601 Fish Lane  
Austin, Texas 78753
  - 4.1.1.4 North East WWTP  
10621 Blue Bluff Rd.  
Manor, Texas 78748
  - 4.1.1.5 River Place WWTP  
8825 Big View Drive  
Austin, TX 78748
  - 4.1.1.6 Lost Creek  
6104 ½ Turtle Point  
Austin, TX 78746
  - 4.1.1.7 Taylor Lane

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0500 SCOPE OF WORK  
SLUDGE PUMPING AND LIFT STATION (WET WELL) CLEANING  
SOLICITATION NO.: IFB 2200 MDD1000**

7535 Taylor lane  
Austin, Texas 78753

- 4.1.3 The Contractor shall haul sludge and sewage to:
- Walnut Creek Wastewater Treatment Plant  
7113 FM 969  
Austin, TX 78724
- 4.1.4 The Contractor shall be in good standing, and have no record of violations of regulations pertaining to the transportation and/or disposal of collected wastes with local, state, and/or federal agencies.
- 4.1.5 The Contractor shall provide service on an as-needed basis during normal business hours of Monday through Friday, 6:00 a.m. to 5:00 p.m. local time, except on City-observed holidays.
- 4.1.6 The Contractor shall be prepared to provide service on an as-needed basis outside of normal business hours. Outside normal business hours are defined as Monday through Friday 5:01 p.m. to 5:59 a.m., Saturday, Sunday, and City-observed holidays.
- 4.1.7 The Contractor shall begin work within 24 hours of notification of contract award.
- 4.1.8 The Contractor shall be capable of hauling loads ranging from a minimum 3,000 gallons to 40,000 gallons per visit.
- 4.1.9 The Contractor shall have a sufficient fleet of trucks able to transport quantities for two consecutive calendar days (for each visit) after scheduling of service and without requiring extended work hours.
- 4.1.10 The Contractor shall not mix or co-mingle any haul with any other waste.
- 4.1.11 The Contractor shall be responsible for cleanup of any spillage or leakage at the Plant, lift station, dump site or during transportation. Contractor shall decant as much excess water after lift station cleaning from equipment in nearest AW approved manhole, before transporting and disposing at Walnut Creek.
- 4.1.12 The Contractor shall document each visit with an Austin-Travis County Manifest/Trip Ticket, see Attachment A at the end of the 0500 Scope of Work.
- 4.1.13 The Contractor shall document each order/job with a Service Ticket or a type of ticket indicating proof of service. (There shall be no waste treatment fee applied for the transportation of sludge from City of Austin locations.) The Service Ticket shall include the following:
- 4.1.13.1 The name of the AW division and employee requesting service
  - 4.1.13.2 Location of service facility
  - 4.1.13.3 Location of disposal site
  - 4.1.13.4 Date and time of arrival and departure
  - 4.1.13.5 Signature of AW employee for verification

**CITY OF AUSTIN**  
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**SLUDGE PUMPING AND LIFT STATION (WET WELL) CLEANING**  
**SOLICITATION NO.: IFB 2200 MDD1000**

- 4.1.14 The Contractor shall provide all necessary equipment, including trucks and operator, to complete each service request. The Contractor shall be responsible for their equipment when in use and/or on City property.
  - 4.1.15 The Contractor shall ensure that the gauge on each truck is fully operational to ensure accurate measurement of each haul. Upon the City's request, the Contractor shall allow Contract Manager to check gauges for accuracy, and the Contractor shall calibrate gauges upon the Contract Manager's request.
  - 4.1.16 The Contractor shall be responsible for ensuring that each truck is inspected and its capacity determined in conjunction with the application for the above-referenced Liquid Waste Transporter Permit from the City of Austin.
  - 4.1.17 The Contractor shall have in their fleet at time of bid submission, at a minimum, three "18-wheeled tankers" with over 6,000 gallon capacity, and two "bobtail" trucks which shall be over 3,000 gallon capacity and one Vactron Truck with a minimum of an 8" suction line.
- 4.2 Scheduled Service-Pump, Haul and Lift Station Cleaning**
- 4.2.1 Scheduled service is defined as any request for pumping, hauling, and disposal services in which the City provides the Contractor a 24 hour or more notice of a pre-determined date and time for services to occur.
  - 4.2.2 The Contractor shall provide scheduled services an estimated 225 times per year.
- 4.3 Emergency Service- Pump, Haul and Lift Station Cleaning**
- 4.3.1 Emergency service is defined as any request for pumping, hauling, and disposal services in which the Contractor is notified less than 24 hours in advance. The Contractor shall report to the incident site within one (1) hour of request by the Contact Person.
  - 4.3.2 Emergency Mobilization Rate. For emergency services, as defined in 4.3.1, the contractor will supply the City with an Emergency Mobilization Rate in section 0600 Bid Sheet. The Emergency Mobilization Rate will be the only additional fee the contractor will charge the City during an emergency service request. Emergency mobilization rates can only be applied once to each emergency service request.
  - 4.3.3 The Contractor shall provide emergency services an estimated 125 times per year.
  - 4.3.4 The Contractor shall be required to keep their pumping and hauling equipment at a City of Austin location for extended time periods, which may vary from several hours to several days depending on the emergency until the City declares the emergency over.
  - 4.3.5 In the event that an emergency occurs during scheduled service, the Contractor shall call out emergency personnel and equipment to perform both services concurrently.
- 4.4 City's Responsibilities**
- 4.4.1 In the event there an increased rate of hauling is required and the Contractor cannot meet the needs of AW, AW reserves the right to order services through a third party to assist in the hauling.

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- 4.4.2 AW reserves the right to visit the Contractor's location(s) prior to and/or during the contract term.
- 4.4.3 AW reserves the right to contact additional haulers in the event of an emergency in which the Contractor is unable to respond and/or contain such an emergency.
- 4.4.4 AW reserves the right to add or remove locations listed in this scope of work.
- 4.4.5 AW will provide the Contractor with adapters (CAMLOCK) due to tanks having different connectors.
- 4.4.6 AW will provide a Point of Contact at the site for all wet well cleanings, for the purpose of controlling the station and controlling the wet well level, and to ensure the completeness of the work. No work shall be deemed complete until AW personnel signs off, on site.

City of Austin / Travis County  
Austin Water Utility  
**Manifest / Trip Ticket for Hauled Liquid Waste**

Number: **999501**

<b>Generator Info</b>	Name:		Address:	
	City:	State:	Zip Code:	Phone:
	<b>Indicate the waste type (must check one) and, if applicable, the interceptor (or trap) capacity:</b> <input type="checkbox"/> Wastewater Treatment Plant Sludge <input type="checkbox"/> Food Service Grease Interceptor (or Trap) Capacity = _____ (gal.) <input type="checkbox"/> Chemical Toilet <input type="checkbox"/> Septic Tank / Sewage Holding Tank Capacity = _____ (gal.) <input type="checkbox"/> Wastewater from Sanitary Sewer System <input type="checkbox"/> Grit / Mud / Oil / Lint Interceptor (or Trap) Capacity = _____ (gal.) <input type="checkbox"/> Other - Specify Source and Type of Waste: _____			
	Gallons Removed:		Date Removed:	
	As the representative for the generator of this waste, I certify that the information provided is true and correct; and that this waste is to be transported to a facility authorized by the Texas Commission on Environmental Quality (TCEQ) to receive these wastes. <b>Printed Name:</b> _____ <b>Signature:</b> _____			
<b>Transporter Info</b>	Business Name :		Address:	
	City:	State:	Zip Code:	Phone:
	TCEQ Registration No.:		Vehicle License No.:	
	COA Permit No.:	Gallons Transported:	Date Relinquished:	
	As the representative for the transporter of this waste, I certify that the information provided is true and correct; and that this waste was collected in accordance with Title 30 of the Texas Administrative Code, Chapter 312, Subchapter G and the Austin City Code. <b>Printed Name:</b> _____ <b>Signature:</b> _____			
<b>Transfer Info</b>	<b>Note:</b> This section is for documenting transfers of wastes between vehicles operating under the same TCEQ Registration Number. The transfer of waste to any secondary transporter must be at a Type V facility that is either permitted by or registered with the TCEQ.			
	1. Was this waste transferred <b>to</b> the vehicle identified above <b>from</b> a previous transporter vehicle? _____ <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, indicate the previous Manifest / Trip Ticket No. here: _____			
	2. Is this waste being transferred <b>from</b> the vehicle identified above <b>to</b> a different (new) transporter vehicle? _____ <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, complete the section below for the vehicle <b>accepting</b> this waste and initiate a new Manifest / Trip Ticket including the new "Transporter Info" and <b>the original</b> "Generator Info" (duplication of the generator's signature would not be required).			
	New Manifest / Trip Ticket No.:		New Vehicle License No.:	
	Gallons Transferred:		Transfer Date:	
	As the representative for the transporter receiving this transferred waste, I certify that the information provided is true and correct. <b>Printed Name:</b> _____ <b>Signature:</b> _____			
<b>Receiver Info</b>	Facility Name:		Address:	
	City:	State:	Zip Code:	Phone:
	<b>Check One:</b> <input type="checkbox"/> Disposal Site <input type="checkbox"/> Permitted Transfer Station <input type="checkbox"/> Registered Transfer Station		TCEQ Type I or Type V Permit No.: _____ <b>OR</b> TCEQ Registration No.: _____	
	Gallons Received:	Date Received:	Time Received:	
	As the representative for the facility receiving this waste, I certify that: • The TCEQ has authorized this facility to accept the waste specified under "Generator Info" above; • The waste was received by this facility on the date and time indicated; and • The waste has been transferred, recycled or disposed of as required by the TCEQ authorization for this facility. <b>Printed Name:</b> _____ <b>Signature:</b> _____			

**0600 BID SHEET  
CITY OF AUSTIN  
SLUDGE AND SEWAGE PUMPING, HAULING AND DISPOSAL AND LIFT STATION (WET WELL) CLEANING  
INVITATION FOR BIDS (IFB) 2200 MDD1000**

**BID DUE DATE:** May 31, 2018

**BUYER:** MATTHEW DUREE

**Special Instructions:** The City intends to award one contract based on total cost of Sections A, B, and C.

The City reserves the right to make multiple awards based on individual or groups of specific line items, cost, or any criteria or any combination deemed most advantageous to the City. The Vendor may choose to submit pricing for all items listed on the bid sheet or only specific items on the bid sheet in consideration of this solicitation.

A bid of "0" (zero) will be interpreted by the City as a no-charge (free) item and the City will not pay for that item. A bid of "no bid" will be interpreted by the City that the responder does not wish to bid on that item. Be advised, a "no bid" may be considered as non-responsive and may result in disqualification of the bid. Prices offered on the bid sheet shall be all inclusive of fees not expressly allowed in the scope of work. The Offeror shall not charge separately for administrative, overhead, per diem, and shipping or transportation costs (travel time, fuel surcharges, mileage, stop-fee, etc.) to deliver services or items to the Austin, Texas area. The Offeror shall provide all tools, labor, travel, and equipment necessary to perform the services required under this contract.

The quantities noted below are annual estimates and not a guarantee of actual volume. The City does not guarantee the purchase of the quantities listed. Quantities are provided as a guide based on historical usage. Actual purchases may be more or less.

**SECTION A - Scheduled Sludge Hauling**

ITEM NO.	ITEM DESCRIPTION	ESTIMATED ANNUAL QUANTITY	UNIT	UNIT PRICE (EACH)	EXTENDED PRICE
1	Taylor Lane 7535 Taylor Lane, Austin, TX 78753	446,160	GALLONS	\$0.035	\$15,615.60
2	Thoroughbred Farms WWTP 8250 Citation Avenue, Austin, TX 78767	377,520	GALLONS	\$0.035	\$13,213.20
3	Dessau WWTP 1601 Fish Lane, Austin, TX 78660	549,960	GALLONS	\$0.035	\$19,248.60
4	Wildhorse 10621 Blue Bluff Road, Manor, TX 78653	1,921,920	GALLONS	\$0.035	\$67,267.20
5	River Place WTP 8825 Big View Drive, Austin, TX 78748	480,480	GALLONS	\$0.035	\$16,816.80
6	Lost Creek 6104 1/2 Turtle Point, Austin, TX 78746	480,480	GALLONS	\$0.035	\$16,816.80



**0600 BID SHEET  
CITY OF AUSTIN  
SLUDGE AND SEWAGE PUMPING, HAULING AND DISPOSAL AND LIFT STATION (WET WELL) CLEANING  
INVITATION FOR BIDS (IFB) 2200 MDD1000**

7	Price charged for scheduled sludge hauling work outside normal business hours, Monday through Friday 5:01 p.m. to 5:59 a.m., Saturday, Sunday, and City-observed holidays.	102,960	GALLONS	\$0.119	\$12,252.24
<b>SECTION A SUBTOTAL</b>					<b>\$161,230.44</b>
<b>SECTION B - Schedule Lift Station Cleaning (Wet Well)</b>					
ITEM NO.	ITEM DESCRIPTION	ESTIMATED ANNUAL QUANTITY	UNIT	UNIT PRICE (EACH)	EXTENDED PRICE
8	Skimming the debris from the top of the wet well and checking the floats if possible at that level.	300	HOURS	\$395.00	\$118,500.00
9	Price for outside normal business hours skimming, which consists of skimming the debris from the top of the wet well and checking the floats if possible at that level. Outside normal business hours include , Monday through Friday 5:01 p.m. to 5:59 a.m., Saturday, Sunday, and City-observed holidays.	100	HOURS	\$790.00	\$79,000.00
10	Clean to the Floor-which consist of removing all debris, rags, grease and rinsing the floats.	600	HOURS	\$395.00	\$237,000.00
11	Price for outside normal business hours clean to the floor, which consist of removing all debris, rags, grease and rinsing the floats. Outside normal business hours include , Monday through Friday 5:01 p.m. to 5:59 a.m., Saturday, Sunday, and City-observed holidays.	200	HOURS	\$790.00	\$158,000.00
<b>SECTION B SUBTOTAL</b>					<b>\$592,500.00</b>
<b>SECTION C - EMERGENCY MOBILIZATION RATE</b>					
ITEM NO.	ITEM DESCRIPTION	ESTIMATED ANNUAL QUANTITY	UNIT	UNIT PRICE (EACH)	EXTENDED PRICE
12	Emergency Mobilization Rate for any sludge hauling or wet well cleaning services requested with less than 24 hours advance notice during normal business hours. May only be charged once per emergency service request.	100	EACH	NO BID	NO BID
13	Emergency Mobilization Rate for any sludge hauling or wet well cleaning services requested with less than 24 hours advance notice OUTSIDE OF normal business hours, Monday through Friday 5:01 p.m. to 5:59 a.m., Saturday, Sunday, and City-observed holidays. May only be charged once per emergency service	25	EACH	NO BID	NO BID
<b>SECTION C SUBTOTAL</b>					<b>NO BID</b>

<p align="center"><b>0600 BID SHEET</b>  <b>CITY OF AUSTIN</b>  <b>SLUDGE AND SEWAGE PUMPING, HAULING AND DISPOSAL AND LIFT STATION (WET WELL) CLEANING</b>  <b>INVITATION FOR BIDS (IFB) 2200 MDD1000</b></p>	
TOTAL COST = SECTION A SUBTOTAL + SECTION B SUBTOTAL	\$753,730.44

Additional Services or Products (PRICING FOR THIS SECTION WILL NOT BE USED TO DETERMINE AWARD).		
ITEM	DESCRIPTION OF OTHER SERVICES OR PRODUCTS	PRICE OR % DISCOUNT
14	Other: (Bidder to Specify - may be \$ or % discount)  SEE ATTACHED PAGE FOR ADDITIONAL SERVICES	
15	Other: (Bidder to Specify - may be \$ or % discount)  SEE ATTACHED PAGE FOR ADDITIONAL SERVICES	

Please check the boxes below as confirmation.	
<input checked="" type="checkbox"/>	Offer Sheet - required
<input checked="" type="checkbox"/>	Bid Sheet (Section 0600) -required
<input checked="" type="checkbox"/>	Local Business Presence Identification Form (Section 0605) - If applicable
<input checked="" type="checkbox"/>	Reference Sheet (Section 0700) -required
<input checked="" type="checkbox"/>	Nonresident Provisions (Section 0835)- required
<input checked="" type="checkbox"/>	Sub-Contracting/Sub-Consulting Utilization Form (Section 0900) - required
<input checked="" type="checkbox"/>	Copy of the most current TCEQ disposal permit - required
<input checked="" type="checkbox"/>	Copy EPA approval certification - required
<input checked="" type="checkbox"/>	Copy of TxDot hauling permit - required
<input checked="" type="checkbox"/>	I UNDERSTAND THAT FAILURE TO SUBMIT THE COMPLETED FORMS ABOVE MAY RESULT IN DISQUALIFICATION OF MY BID



0600 BID SHEET  
CITY OF AUSTIN  
SLUDGE AND SEWAGE PUMPING, HAULING AND DISPOSAL AND LIFT STATION (WET WELL) CLEANING  
INVITATION FOR BIDS (IFB) 2200 MDD1000



I UNDERSTAND THAT SUBMITTING WITH MY BID ANY CLARIFICATION STATEMENTS, QUALIFYING STATEMENTS, AND/OR EXCEPTIONS TO THE CITY'S TERMS AND CONDITIONS MAY RESULT IN DISQUALIFICATION OF MY BID

COMPANY NAME: Wastewater Transport Services

SIGNATURE OF AUTHORIZED REPRESENTATIVE:

PRINTED NAME: Cary Juby

EMAIL ADDRESS: Cary@wastewaters.com

Description of Service	Unit Type	Cost
7,000 gallon wastewater or water plant sludge load with disposal included, scheduled with 24 hours notice	per load	\$645.00
DISPOSAL ONLY Wastewater Treatment Plant Sludge (Hauled by us or City of Austin trucks)	per gallon rate	\$0.06
DISPOSAL ONLY Raw sewage disposal (Hauled by us or City of Austin trucks)	per gallon rate	\$0.04
DISPOSAL ONLY Categorical waste disposal (Oily Waste Subcategory)	per gallon rate	\$0.48
DISPOSAL ONLY Lift station waste disposal	per gallon rate	\$0.48
Wait time for tanker or bobtail past first hour, hourly rate (i.e. City can't accommodate trucks for unloading)	per hour rate	\$225.00
4,000 Gallon bobtail truck to support lift station cleanings, scheduled normal business hours	per hour rate	\$225.00
4,000 Gallon bobtail truck to support lift station cleanings, scheduled outside business hours	per hour rate	\$325.00

Prices above do not guarantee service availability, only additional options

All per gallon rates listed above are for disposal at our facility, which is permitted by the TCEQ and City of Austin

**Section 0605: Local Business Presence Identification**

A firm (Offeror or Subcontractor) is considered to have a Local Business Presence if the firm is headquartered in the Austin Corporate City Limits, or has a branch office located in the Austin Corporate City Limits in operation for the last five (5) years, currently employs residents of the City of Austin, Texas, and will use employees that reside in the City of Austin, Texas, to support this Contract. The City defines headquarters as the administrative center where most of the important functions and full responsibility for managing and coordinating the business activities of the firm are located. The City defines branch office as a smaller, remotely located office that is separate from a firm's headquarters that offers the services requested and required under this solicitation.

**OFFEROR MUST SUBMIT THE FOLLOWING INFORMATION FOR EACH LOCAL BUSINESS (INCLUDING THE OFFEROR, IF APPLICABLE) TO BE CONSIDERED FOR LOCAL PRESENCE.**

*NOTE: ALL FIRMS MUST BE IDENTIFIED ON THE MBE/WBE COMPLIANCE PLAN OR NO GOALS UTILIZATION PLAN (REFERENCE SECTION 0900).*

**\*USE ADDITIONAL PAGES AS NECESSARY\***

**OFFEROR:**

Name of Local Firm	Wastewater Transport Services, LLC	
Physical Address	826 Linger Ln, Austin, Texas 78721	
Is your headquarters located in the Corporate City Limits? (circle one)	<input checked="" type="radio"/> Yes	<input type="radio"/> No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years?	<input type="radio"/> Yes	<input type="radio"/> No
Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	<input checked="" type="radio"/> Yes	<input type="radio"/> No

**SUBCONTRACTOR(S):**

Name of Local Firm		
Physical Address		
Is your headquarters located in the Corporate City Limits? (circle one)	<input type="radio"/> Yes	<input type="radio"/> No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years	<input type="radio"/> Yes	<input type="radio"/> No

Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No

**SUBCONTRACTOR(S):**

Name of Local Firm		
Physical Address		
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years	Yes	No
Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No

**Section 0700: Reference Sheet**Responding Company Name Wastewater Transport Services

The City at its discretion may check references in order to determine the Offeror's experience and ability to provide the products and/or services described in this Solicitation. The Offeror shall furnish at least 3 complete and verifiable references. References shall consist of customers to whom the offeror has provided the same or similar services within the last 5 years. References shall indicate a record of positive past performance.

1. Company's Name West Travis County Public Utility Agency  
Name and Title of Contact Bubba Harker  
Project Name Sludge hauling lift station cleanings, emergency service  
Present Address 12117 Bee Cave Rd Bld 3 STE 120  
City, State, Zip Code Austin, texas 78738  
Telephone Number ( 512 ) 263-0100 Fax Number ( )  
Email Address hharkrider@wtcpua.org
  
2. Company's Name Crossroads Utility  
Name and Title of Contact Andrew Hunt  
Project Name Sludge hauling lift station cleanings, emergency service  
Present Address 2601 Forest Creek Dr  
City, State, Zip Code Round Rock, Texas 78665  
Telephone Number ( 512 ) 246-5921 Fax Number ( )  
Email Address ahunt@crossroadsus.com
  
3. Company's Name Austin Water  
Name and Title of Contact Darryl DeVought  
Project Name Sludge hauling lift station cleanings, emergency service  
Present Address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_  
Telephone Number ( 512 ) 665-5614 Fax Number ( )  
Email Address \_\_\_\_\_

**City of Austin, Texas**

**Section 0800**

**NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION**

**City of Austin, Texas**

**Equal Employment/Fair Housing Office**

To: City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Non-Discrimination and Non-Retaliation Policy set forth below.

**City of Austin**

**Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy**

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.



The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination and non-retaliation employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE THE CITY A COPY OF THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICIES ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICIES, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

**Sanctions:**

Our firm understands that non-compliance with Chapter 5-4 and the City's Non-Retaliation Policy may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4 and the Non-Retaliation Policy.

**Term:**

The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor's separate conforming policy, which the Contractor has executed and filed with the City, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payment, the Contractor's Non-Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 29<sup>th</sup> day of May, 2018

CONTRACTOR

Authorized  
Signature

Title

Wastewater Transport Services  
Cary D. J. [Signature]  
Vice President

**Section 0815: Living Wages Contractor Certification**

Pursuant to the Living Wages provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees of the Prime Contractor and all tiers of subcontractors directly assigned to this City contract a minimum Living Wage equal to or greater than \$14.00 per hour.

- (1) The below listed individuals are all known employees of the Prime Contractor and its subcontractors who are directly assigned to this contract, and all are compensated at wage rates equal to or greater than \$14.00 per hour:

Employee Name	Employer	Prime or Sub	Your Normal Rate	Employee Job Title
All WASTEWATER TRANSPORT SERVICES EMPLOYEES			> \$14.00	All

- (2) All future employees of both the Prime Contractor and all tiers of subcontractors directly assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$14.00 per hour.
- (3) Our firm will not retaliate against any employee of either the Prime Contractor or any tier of subcontractors claiming non-compliance with the Living Wage provision.

A Prime Contractor or subcontractor that violates this Living Wage provision shall pay each of its affected employees the amount of the deficiency for each day the violation continues. Willful or repeated violations of the provision by either the Prime Contractor or any tier of subcontractor, or fraudulent statements made on this certification, may result in termination of this Contract for Cause, subject the violating firm to possible suspension or debarment, or result in legal action.

I hereby certify that all the listed employees of both the Prime Contractor and all tiers of subcontractors who are directly assigned to this contract are paid a minimum Living Wage equal to or greater than \$14.00 per hour.

Contractor's Name: Wastewater Transport Services

Signature of Officer  
or Authorized  
Representative:

Cary Juby

Date: 05/29/2018

Printed Name:

Cary Juby

Title

Vice-President



**Section 0835: Non-Resident Bidder Provisions**

Company Name Wastewater Transport Services

- A. Bidder must answer the following questions in accordance with Vernon's Texas Statutes and Codes Annotated Government Code 2252.002, as amended:

Is the Bidder that is making and submitting this Bid a "Resident Bidder" or a "non-resident Bidder"?

Answer: Resident Bidder

- (1) Texas Resident Bidder- A Bidder whose principle place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.  
(2) Nonresident Bidder- A Bidder who is not a Texas Resident Bidder.

- B. If the Bidder is a "Nonresident Bidder" does the state, in which the Nonresident Bidder's principal place of business is located, have a law requiring a Nonresident Bidder of that state to bid a certain amount or percentage under the Bid of a Resident Bidder of that state in order for the nonresident Bidder of that state to be awarded a Contract on such bid in said state?

Answer: \_\_\_\_\_ Which State: \_\_\_\_\_

- C. If the answer to Question B is "yes", then what amount or percentage must a Texas Resident Bidder bid under the bid price of a Resident Bidder of that state in order to be awarded a Contract on such bid in said state?

Answer: \_\_\_\_\_

**Section 0900: SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM**

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form**

SOLICITATION NUMBER: IFB 2200 MDD1000

SOLICITATION TITLE: Sludge Pumping, Hauling and Lift Station (Wet Well) Cleaning

In accordance with the City of Austin's Minority and Women-Owned Business Enterprises (M/WBE) Procurement Program (Program), Chapters 2-9A/B/C/D of the City Code and M/WBE Program Rules, this Solicitation was reviewed by the Small and Minority Business Resources Department (SMBR) to determine if M/WBE Subcontractor/Sub-Consultant ("Subcontractor") Goals could be applied. **Due to insufficient subcontracting/subconsultant opportunities and/or insufficient availability of M/WBE certified firms, SMBR has assigned no subcontracting goals for this Solicitation.** However, Offerors who choose to use Subcontractors must comply with the City's M/WBE Procurement Program as described below. Additionally, if the Contractor seeks to add Subcontractors after the Contract is awarded, the Program requirements shall apply to any Contract(s) resulting from this Solicitation.

**Instructions:**

- a.) Offerors who do not intend to use Subcontractors shall check the "NO" box and follow the corresponding instructions.  
b.) Offerors who intend to use Subcontractors shall check the applicable "YES" box and follow the instructions. **Offers that do not include the following required documents shall be deemed non-compliant or nonresponsive as applicable, and the Offeror's submission may not be considered for award.**

☒ **NO, I DO NOT intend to use Subcontractors/Sub-consultants.**

**Instructions:** Offerors that do not intend to use Subcontractors shall complete and sign this form below (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form) and include it with their sealed Offer.

☐ **YES, I DO intend to use Subcontractors /Sub-consultants.**

**Instructions:** Offerors that do intend to use Subcontractors shall complete and sign this form below (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form), and follow the additional Instructions in the (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Plan). Contact SMBR if there are any questions about submitting these forms.

Offeror Information			
Company Name	Wastewater Transport Services, LLC		
City Vendor ID Code	VS0000034176		
Physical Address	826 Linger Ln		
City, State Zip	Austin, Texas 78721		
Phone Number	512-973-8484	Email Address	austin@wastewaterts.com
Is the Offeror City of Austin M/WBE certified?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES      Indicate one: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE Joint Venture		

**Offeror Certification:** I understand that even though SMBR did not assign subcontract goals to this Solicitation, I will comply with the City's M/WBE Procurement Program if I intend to include Subcontractors in my Offer. I further agree that this completed **Subcontracting/Sub-Consulting Utilization Form**, and if applicable my completed **Subcontracting/Sub-Consulting Utilization Plan**, shall become a part of any Contract I may be awarded as the result of this Solicitation. Further, if I am awarded a Contract and I am not using Subcontractor(s) but later intend to add Subcontractor(s), before the Subcontractor(s) is hired or begins work, I will comply with the City's M/WBE Procurement Program and submit the **Request For Change** form to add any Subcontractor(s) to the Project Manager or the Contract Manager for prior authorization by the City and perform Good Faith Efforts (GFE), if applicable. I understand that, if a Subcontractor is not listed in my **Subcontracting/Sub-Consulting Utilization Plan**, it is a violation of the City's M/WBE Procurement Program for me to hire the Subcontractor or allow the Subcontractor to begin work, unless I first obtain City approval of my **Request for Change** form. I understand that, if a Subcontractor is not listed in my **Subcontracting/Sub-Consulting Utilization Plan**, it is a violation of the City's M/WBE Procurement Program for me to hire the Subcontractor or allow the Subcontractor to begin work, unless I first obtain City approval of my **Request for Change** form.

Cary Juby

Name and Title of Authorized Representative (Print or Type)

Signature/Date

*Cary Juby* 05/29/2018



Texas Commission on Environmental Quality

**SLUDGE TRANSPORTER REGISTRATION**

Registration Number: 24343

CN603799313

RN106068307

*R. D. A. Hylb*

Print Date: April 11, 2018

For the Commission

**Company:** WASTEWATER TRANSPORT SERVICES LLC

**Registered Since:** December 29, 2010

**Expiration Date:** August 31, 2018

**Status:** ACTIVE

**Regulated Entity:** WASTEWATER TRANSPORT SERVICES

**Organization Type:** OTHER

**County:** TRAVIS

**TCEQ Region:** 11

**Transport Waste into Texas:** NO

**Transport Waste out of Texas:** NO

**Physical Address:**

826 LINGER LN  
AUSTIN, TX 78721-3650

**Contact Information**

**Contact:** ALLYSSA JUBY

**Phone:** 512-973-8484

**Fax:** 512-339-2130

**E-Mail:** LISA@WASTEWATERTS.COM

**Mailing Address:**

826 LINGER LN  
AUSTIN, TX 78721-3650

**Sticker Numbers Issued and Listed below will expire on August 31, 2018:**

4538	4539	4540	4541	4542	4543	4544	4545	4546
4547	4548	4549	4550	4551	4552	4553	4554	4555
4556	4557	4558	4559	4560	4561	4562	4563	4564
4565	4566	4567	4568	4569	4570	3901	3902	3903
8756	8757	8758	8759	8760	8761	8762	8763	8764
8765	8766	8767	8768	8769	8770			

**This is your registration** which reflects the information submitted on your application to the Register or Renew as a Transporter of Municipal Sludge(s) and Similar Wastes. Requirements for transportation are provided in accordance with 30 TAC Chapter 312. Issuance of this registration is not acknowledgement by the TCEQ that your operation is in full compliance with the rules and regulations of the TCEQ. Changes or additions referred to this notice require written notification to the TCEQ. Please keep a copy of this registration in every vehicle transporting sludge and all locations where business is being transacted under this registration.



Texas Commission on Environmental Quality

**SLUDGE TRANSPORTER**

Registration Number: 24343

*R. D. A. Hyl*

Print Date: April 11, 2018

For the Commission

**Disposal Facility Information**

	DS; GS		
2027	GS; GT	BFI GOLDEN TRIANGLE LANDFILL	MSWDISP
2234A	DS; GS; GT	LIQUID ENVIRONMENTAL SOLUTIONS	MSWPROC
2241A	DS; GS; GT	SOUTHWASTE DISPOSAL HURST FACILITY	MSWPROC
2250	GS	LIQUID ENVIRONMENTAL SOLUTIONS OF TEXAS	MSWPROC
2298	DS; GS; GT	DOWNSTREAM ENVIRONMENTAL BR PERRIN PLANT	MSWDISP
2310	DS; GS; WT; WW	J-V DIRT + LOAM	MSWPROC
2370	GS; GT	WASTEWATER RESIDUALS MANAGEMENT	MSWPROC
2384	DS; GS; GT; PP; WT; WW	AUSTIN WASTEWATER PROCESSING FACILITY	MSWPROC
249D	GS; GT; WT	WASTE MANAGEMENT OF TEXAS AUSTIN COMMUNITY RECYCLIN	MSWDISP
261B	GS; WW	MCCARTY ROAD LANDFILL TX	MSWDISP
43000	DS; GS; GT; WW	JTB RECYCLING LIQUID WASTE PROCESSING FACILITY	SLUDGE
43024	DS; WT; WW	TEXAS ORGANIC RECOVERY	MSWDISP
WQ0001740000	WW	WASHBURN TUNNEL	WWPERMIT
WQ0003987000	DS; PP; WT; WW	WASTE WATER RESIDUAL MANAGEMENT	WWPERMIT
WQ0004470000	WT; WW	JUBY BRIGGS BFU SITE	SLUDGE
WQ0010137033	DS; PP	DOS RIOS WATER RECYCLING CENTER	WWPERMIT
WQ0010210002	WT; WW	LOCKHART WWTP 2	WWPERMIT
WQ0010264001	WW	BRUSHY CREEK WEST REGIONAL WWTP	WWPERMIT
WQ0010264002	DS; WW	BRUSHY CREEK REGIONAL WWTP EAST PLANT	WWPERMIT
WQ0010543011	DS; WT; WW	WALNUT CREEK WWTP	WWPERMIT
WQ0010582002	DS; WT; WW	LULING NORTH WWTP	WWPERMIT
WQ0011931001	WT; WW	WINDERMERE WWTP	WWPERMIT
WQ0012644001	WW	LEANDER WWTP	WWPERMIT
WQ0012900001	DS; WT; WW	WILBARGER CREEK WWTP	WWPERMIT

**Waste Types**

DS - Septic Tank Waste  
GS - Grease Trap Waste

GT - Grit Trap Waste  
PP - Chemical Toilet Waste

WT - Water Supply Treatment Plant Sludge  
WW - Waste Water Treatment Plant Sludge





Texas Commission on Environmental Quality

**SLUDGE TRANSPORTER**

Registration Number: 24343

*R. D. A. Hylb*

Print Date: April 11, 2018

For the Commission

**Vehicle Information**

<u>License Plate</u>	<u>Year</u>	<u>Vehicle Make</u>	<u>Sticker Issued</u>	<u>Vehicle Capacity</u>
60DHZ9	2008	FORD	01/18/2011	500 GAL
GCL8891	1999	FREIGHTLINER	01/25/2011	3000 GAL
AP93199	1999	FREIGHTLINER	01/25/2011	4000 GAL
69LHR9	2000	INTERNATIONAL	01/25/2011	2000 GAL
2BY585	2011	MACK ROLLOFF	01/25/2011	40 CY
GWS5128	1997	GMC	01/25/2011	600 GAL
IKO1373	2011	MACK	01/25/2011	7000 GAL
1G77042	2011	MACK	01/25/2011	7000 GAL
AX76498	2011	MACK	05/25/2011	4000 GAL
IL81596	2012	MACK	08/16/2011	7000 GAL
1K01375	2012	MACK	09/29/2011	7000 GAL
BL06507	2012	MACK	09/29/2011	7000 GAL
CRF2718	2003	FORD	02/06/2013	500 GAL
1E76342	2007	FREIGHTLINER	02/06/2013	7000 GAL
1E76340	2005	MACK	08/08/2013	7000 GAL
1G77035	2005	FREIGHTLINER	08/08/2013	7000 GAL
HCF0457	1999	INTERNATIONAL VACCON	08/08/2013	1000 GAL
CKB2718	2013	MACK	08/08/2013	4000 GAL
CVV4292	2014	INTERNATIONAL	08/22/2014	4000 GAL
CBW2158	2007	FREIGHTLINER	08/22/2014	4000 GAL
CRF5464	2005	FORD	03/13/2015	300 GAL
GKY7351	2002	VOLVO	10/19/2015	1000 GAL
FBF7298	2005	FORD	10/19/2015	300 GAL
CSZ0276	2013	FORD	10/19/2015	500 GAL
GSX2689	2012	PETERBILT	02/05/2016	3500 GAL
GSX2740	2012	PETERBILT	02/05/2016	3500 GAL
IL81593	2016	FREIGHTLINER	02/09/2016	7000 GAL
IHO1216	2016	MACK	03/31/2016	7000 GAL
IKO2024	2016	FREIGHTLINER	08/30/2016	7000 GAL
AX76499	2011	MACK	08/30/2016	4000 GAL
IKO2025	2016	FREIGHTLINER	08/30/2016	4000 GAL
IL81595	2015	MACK	08/30/2016	7000 GAL
IL81594	2016	MACK	08/30/2016	7000 GAL
JBM 6420	2015	FREIGHTLINER VACCON #138	12/06/2016	1000 GAL
IKO 2456	2016	FREIGHTLINER #139	12/06/2016	7000 GAL
TEMP I	2016	FORD 550 #140	12/06/2016	1000 GAL
IG77040	2012	MACK	03/31/2018	1000 GAL
IKO1372	2005	FREIGHTLINER	03/31/2018	7000 GAL
BG91478	2000	FORD	03/31/2018	300 GAL
GCL8892	2006	FREIGHTLINER	03/31/2018	500 GAL

IL81592	2016	FREIGHTLINER	03/31/2018	7000 GAL
IL81591	2016	FREIGHTLINER	03/31/2018	7000 GAL
IL81590	2016	FREIGHTLINER	03/31/2018	7000 GAL
JRH4675	2017	FREIGHTLINER ROLLOFF	03/31/2018	40 CY
JYV4418	2018	FREIGHTLINER	03/31/2018	7000 GAL
IL93004	2016	WESTERN STAR	03/31/2018	7000 GAL
KGV7045	2004	MACK	03/31/2018	7000 GAL
CJL4742	2003	VOLVO	03/31/2018	2500 GAL
BRH8227	1999	VOLVO	03/31/2018	3000 GAL
AW72874	1995	VOLVO	03/31/2018	3000 GAL
FCY0105	2015	MACK ROLLOFF	03/31/2018	40 CY

\*UOM - Units of Measure



## EPA Approval Certification

The TCEQ does not consider the waste described in the bid to be "hazardous" it would be considered a Class 2 Non-hazardous Waste. While it is a health hazard if it overflows and people or animals come in contact with it.

It therefor does not require place carding or haz-mat requirements.

Austin (Corporate)  
826 Linger Ln  
Austin, Texas 78721

Beaumont  
4895 Romeda Rd.  
Beaumont, Texas 77705

Houston  
10217A Wallisville Rd.  
Houston, Texas 77013